EXECUTIVE REORGANIZATION COMMISSION

REPORT ON INVESTMENTS

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INTRODUCTION

On January 1, 1970, investments from Montana state treasury cash totaled $221,407,642.92; $202,252,357.92 was invested from 33 separate accounts in the treasury by various state agencies in various types of securities; $9,301,250 was surplus cash invested in certificates of deposit; and $9,854,035 was surplus cash invested in United States Treasury bills and bonds.

This report is concerned only with investments made with state treasury funds; that is, funds that are cleared through the office of the State Treasurer. In 1965, the Legislature requested the State Controller and the State Budget Director to prepare a comprehensive inventory of all funds of state agencies held outside the state treasury (Laws of Montana, 1965, HJR 1, at 965). Work on the inventory was begun but, because of shortage of time and personnel, was never finished. All personnel with the State Controller and State Budget Director who worked on this project have since left state government service; thus, there seems to be no source available for additional information on the 1965 study. Such an inventory of funds might possibly reveal investment implications not now known. According to personnel in the Department of Administration, the only state moneys now known to be kept outside of the treasury system are large amounts of moneys received by the University System.

In 1953, the Legislature enlarged the provisions of the already existing "Unified Investment Plan" (Sections 79-1201 - 79-1216, R.C.M. 1947) in an attempt to give the State Board of Land Commissioners the authority to make investments of all state funds available for investment. The Plan established three types of funds, with different limitations on the investment of moneys from each fund:

1. Montana Trust and Legacy Fund. The allowable investment of moneys from this fund is specified in Article XXI of the Montana Constitution which limits investments to general obligation bonds and state and county warrants. These are the most conservative types of investments.

2. Long-term investment fund. Much more liberal conditions are set forth for moneys from this fund consisting mainly of retirement systems and Industrial Accident Board moneys. The permitted investments are:

   a. United States Government securities;
   b. Bonds of the state of Montana and its political subdivisions;
   c. Federal Land Bank bonds;

d. General fund warrants of the state of Montana and of its political subdivisions;
e. Insured first mortgages on real property;
f. Corporate first mortgage bonds and other evidences of indebtedness;
g. Transportation company trust certificates.

3. Short-term investment fund. This fund, consisting of surplus treasury cash and sinking fund moneys not immediately needed, may be invested in state bonds, state warrants and United States Government securities.

The intent of the law is circumvented, however, and the Plan ineffective. There are six state agencies which invest state funds.

1. The State Board of Land Commissioners invests the Trust and Legacy Fund and two other accounts for the Land Board itself; and also invests sinking funds and surplus operating funds at the request of other state agencies. On January 1, 1970, there were 21 accounts of other agencies which had been invested by the Land Board.

2. The Public Employees' Retirement Board is ex-officio the Judges' Retirement Board and ex-officio the Game Wardens' Retirement Board and invests pension funds for all three retirement systems.

3. The Social Security Division of PERS invests, in short term securities, Social Security contributions of employers and employees until the money is forwarded to the United States Treasurer.

4. The Industrial Accident Board invests its insurance reserve funds and funds from three other accounts.

5. The Teachers' Retirement Board invests its own pension funds.

6. The Treasurer, under the direction of the Depository Board, invests surplus treasury cash.

The following sections of this report discuss the statutory (and if applicable, constitutional) authority, investment procedure and the funds invested by the State Board of Land Commissioners, Public Employees' Retirement Board, Social Security Division, Industrial Accident Board, Teachers' Retirement Board, and State Treasurer. To assure factual accuracy, these sections of the report--not the appraisal or proposal--were sent to and approved by the agencies concerned.

PRESENT ORGANIZATION

STATE BOARD OF LAND COMMISSIONERS

General

The State Board of Land Commissioners (hereinafter called the Land Board), which consists of the Governor, Superintendent of Public Instruction, Secretary of State, and Attorney General, has complete investment authority over three funds:

1. Trust and Legacy,
2. Common school interest and income,
3. Resource Development;

and invests other funds at the request of various state agencies, which agencies determine how much money is available for investing and for what term the investment is to be made. All securities are held in safekeeping by the Treasurer. On January 1, 1970, there were 16 types of funds from 21 accounts which had been invested by the Land Board at the request of other agencies:

1. Fish and Game,
2. Highway Patrol Retirement,
3. Livestock Commission,
4. Livestock Sanitary Board Emergency,
5. Livestock Sanitary Board Federal and Private Revenue,
6. Hail Insurance,
7. Oil and Gas Conservation Commission,
8. Cosmetologists Examining Board,
9. Water Well Contractors,
10. Wheat Research and Marketing,
11. Sanitarians Registration Council,
12. Water and Waste Water Operators,
13. Long Range Building Program Sinking,
14. University Reserve or Sinking,
15. Long Range Building Clearance,
16. World War I Escrow Sinking.

There is relatively little investment activity in the majority of the above accounts. Seven accounts involve just one isolated investment in the past, with no future investments from the account contemplated; two accounts involve about one investment per year; four accounts involve no more than four investments or reinvestments during a year. The University Sinking Fund accounts are quite active, involving many investments and redemptions of small amounts of moneys; the Long Range Building Program Clearance account averages more than one investment per month. On January 1, 1970, there was a total of $71,214,334 in investments which had been made by the Land Board.

Constitutional and Statutory Authority

Article XI, Section 4, Montana Constitution creates the Land Board and gives it the direction and control of the leasing and sale of school lands of the state and the lands granted for the support of the various state educational institutions. Section 81-103, R.C.M. 1947, gives the Land Board control over the funds arising from the leasing, use, sale and disposition of these lands.

As pointed out in the introduction, Section 79-1202, R.C.M. 1947 attempts to make the Land Board a central investment authority for the entire state with investment control over all state funds, and Section 79-1203, R.C.M. 1947 reads:

> Except as otherwise provided, any department of the government of the state of Montana, state board, commission, bureau, institution, office or officer, which has under its or his administration any moneys subject to investment, must have such moneys or any part thereof subject to investment invested by the state board of land commissioners as part of the Montana trust and legacy fund, the long term investment fund or the short term investment fund depending on the nature of the moneys and the time when the principal investment may be required for the purpose for which it was accumulated. The said board is hereby authorized and required to invest and administer the moneys for which said request has been made. (Emphasis supplied.)

Procedure

The administrative assistant in the Land Office handles all the mechanics of investing. The Land Commissioner and the assistant choose investments from lists of available offerings, often after consultation with a local banker. The Land Board approves the investments at its meetings. There is no professional investment service retained. Once an investment is decided upon, the assistant calls the bank to order the investment and at the same time takes a signed order for a warrant or warrants for the cost of the investment to the State Auditor. One warrant is written for par value of the security. If a security is purchased at a discount*, the bank issues a cashier's check in refund for the amount of the discount, which amount is credited as interest to the account from which moneys are being invested. If a security

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*Discount: Security is purchased for a price below par value. The discount is considered an advance payment of interest.

is purchased at a premium* a second warrant is written for the amount of the premium. All securities are given to the State Treasurer for safekeeping.

Each time investments of moneys belonging to the three funds under Land Board control are made, certain bookkeeping processes allocating the moneys to the proper accounts must first be completed. In the near future, these practices are going to be changed so that investments may be made more often. In the past, investments have been made only monthly or even bi-monthly but under the new procedure investments may be made as often as once a week.

The administrative assistant estimates that he has spent about one day a week (or 20 per cent of his time) on investment functions in the past, but with the change in frequency of investments he will be spending a larger percentage of his time on this function. The Land Commissioner spends about 5 per cent of his time on investment related functions; and the Land Board itself spends approximately 10 to 15 per cent of its meeting time hearing reports on, and approving investments. (The Land Commissioner believes that it is not possible to put a price tag on these investment related duties.)

Funds Invested

Trust and Legacy Fund

Article XXI, Sections 1 - 18, Montana Constitution, and Title 81, Chapter 10, R.C.M. 1947, define the Montana Trust and Legacy Fund and appear to limit the investment of this fund by the Land Board to general obligation bonds (school district, county, and municipal bonds, bonds for the state of Montana, of the United States and Federal Land Bank Bonds) and state and county warrants.

The Trust and Legacy Fund consists of six types of funds:

1. Permanent funds created from donations from natural persons;
2. Funds earmarked for particular scientific, charitable, educational, etc. purposes created from donations from natural persons;
3. The public school permanent fund and other permanent funds which originated in land grants from the United States;
4. Funds which political subdivisions request the state to invest;

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*Premium: Security is purchased for a price above the par value. The amount exceeding normal value decreases the percentage of interest earned over the life of the security.

5. Escheated estates; and
6. All other public funds subject to long term investment when not administered by another repository.

Presently, the Trust and Legacy Fund consists of 18 active accounts.

All accounts in the Trust and Legacy Fund except one* are united for the purpose of investment but retain their individual identity. Interest earned is credited pro rata to each account. In 1969, the Land Board made 14 investments from the Trust and Legacy Fund totaling over $3 million. The investments averaged $230,000; the smallest being $125,000 and the largest being $485,000.

On January 1, 1970, a total of $58,083,000 in the Trust and Legacy Fund was invested as follows:

Investment	Par Value	Per cent of Total Investment
Federal Land Bank Bonds	$ 10,409,000	17.92%
United States Treasury Bonds	47,664,000	82.06%
Industrial School Physical Education Bonds	10,000	.02%
	$ 58,083,000	100.00%

Common School Interest and Income Account

The Land Board invests moneys in the common school interest and income account in the Federal and Private Grant Clearance Fund which consists of moneys received from the use of state lands (including grazing rentals, crop shares, oil lease rentals, interest on land contracts and interest on investments) allocable to public schools.

In accordance with the Montana Constitution, Article XI, Section 5, before the interest and income money is distributed to the public schools, 5 per cent of it is deducted and credited to the public school permanent account in the Trust and Legacy Fund. The other 95 per cent is distributed to the school districts of the state in proportion to the number of children of school age within the district.

The moneys in the common school interest and income account are kept invested as long as possible up to the time of distribution. In 1969,

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*The one exception is a non-cash account consisting of shares of preferred Montana Power stock which are held by the State Treasurer, valued at $62,080. This account was established by bequest prior to 1919, giving the income from the investment to the Law Library at the University of Montana.

there were 14 investments--totaling over $7.5 million--made with income to this account. The investment amount average was $550,000; the smallest being $145,000 and the largest $800,000.

On January 1, 1970, there was $6,905,000 from this account invested in United States Treasury bills.

Resource Development Account

The Land Board invests moneys in the resource development account in the Earmarked Revenue Fund. This account consists of moneys derived from a percentage of rental income received from state lands. The 1967 Legislature enacted the Resource Development Law, the purpose of which is to provide for the development of state lands with a view of increasing their productivity as well as claiming and perfecting title to lands for the state. Section 81-2402, R.C.M. 1947 of this law defines "income" as " . . . all proceeds received for the use of state land except revenues required by law to be placed in the Montana trust and legacy fund." Section 81-2405, R.C.M. 1947 says:

> The board shall determine the amount or percentage of income, not to exceed two and one-half per cent ($2\frac{1}{2}\%$) which is necessary to achieve the purposes of this act, and shall provide by rule for deductions of that amount or percentage from the income which is secured from the lands by the department for the trusts benefited by this act.

After depositing 5 per cent of all income and interest moneys into the public school permanent account, the Land Board deducts two and one-half per cent ($2\frac{1}{2}\%$) of the rental income remaining for deposit in the resource development account.

Initially, this account had over $200,000 deposited to it and at the present time consists of $327,000, $230,000 of which is invested. Current income is used for current expenditures and the account balance remains fairly constant with the only investment activity being in reinvesting matured securities.

Section 81-2407,R.C.M. 1947, provides that the Land Board shall invest the moneys in this account in safe interest bearing securities. As stated above, on January 1, 1970 there was $230,000 from this account invested in United States Treasury bills.

Fish and Game Account

All moneys collected from the sale of hunting and fishing licenses and from fines collected for violations of game laws are deposited in the fish and game account in the Earmarked Revenue Fund. In 1953, the Land Board invested $300,000 from this account, at the request of the Fish and Game Commission, in Silver Bow County School District Bonds. Presently, $37,000 worth of these bonds are still being held, the last of which will mature in 1973. (The $300,000 had accumulated because of the lack of building and improvement activity during the war years.)

Although Section 79-1202 (2), R.C.M. 1947 states:

> The state board of land commissioners is hereby authorized and required to invest in the long term investment fund the following: . . . moneys designated as available by the Montana fish and game commission. . . .

there has been no investment activity for this account since 1957. The Director of the Fish and Game Commission reports that at least once a year there is substantial surplus in this earmarked account that could be invested for a two or three month period in short term securities.

Highway Patrol Retirement Account

The Land Board invests moneys in the Highway Patrol Retirement account in the Agency Fund. The Highway Patrolmen's Retirement Board, which consists of five members including the chairman of the Highway Patrol Board, the supervisor of the Highway Patrol and three members of the Highway Patrolmen's Association elected by the Association, is charged by law with the management of the retirement fund (Title 31, Chapter 2, R.C.M. 1947). Section 31-205, R.C.M. 1947 provides:

> Whenever there is on deposit in the Montana highway patrolmen's retirement account a sum in excess of twenty-five thousand dollars ($25,000.00), such excess will be invested by the state board of land commissioners as part of the long term investment fund and any of the account less than twenty-five thousand dollars ($25,000.00) in amount shall be invested by the state board of land commissioners as part of the short term investment fund when so directed by the Montana highway patrolmen's retirement board.

The Highway Patrol Retirement account consists of moneys used to support the retirement system. The system is financed by employee contributions of five per cent (5%) of salary and state contributions of

15 per cent (15%) of all moneys received from the collection of motor vehicle drivers' license fees (Sections 31-209 and 31-210, R.C.M. 1947).

The retirement board determines how much money must be kept to meet current operating expenses and how much surplus may be invested. The present policy is to ask the Land Board to make an investment each quarter. The Land Board invests about $200,000 yearly for the Highway Patrol Retirement System.

On January 1, 1970, the investments from this account totaled $1,614,000 as follows:

Investment	Par Value	Per Cent of Total Investment
U. S. Treasury Bonds	$ 1,136,000	70.38%
Federal Land Bank Bonds	220,000	13.63%
Michigan Bell Debentures	100,000	6.20%
Pacific Tel. & Tel. Debentures	65,000	4.03%
Cheasapeake & Potomac Bonds	15,000	.92%
Northwest Bell Telephone Debentures	30,000	1.86%
Baltimore Gas & Electric Bonds	20,000	1.24%
Pacific Northwest Bell Telephone Debentures	28,000	1.74%
	$ 1,614,000	100.00%

Livestock Commission Account

The Land Board invests moneys in the Livestock Commission account in the Earmarked Revenue Fund. The Livestock Commission, consisting of six (6) livestock owners appointed by the Governor, receives income from various license and inspection fees. The largest percentage of their income consists of taxes on livestock (Section 84-5211, R.C.M. 1947) and market inspection fees (Section 46-804, R.C.M. 1947).

The chief accountant for the Livestock Commission determines when there is sufficient surplus money to invest and,in writing, instructs the Land Board as to the amount of money available and the length of time the investment is to be made. Most investments are short term (less than

one year). In 1969 there were four investments or reinvestments made for a total of $227,000.

On January 1, 1970, there was $121,000 from this account invested in United States Treasury notes and bills.

Livestock Sanitary Board Emergency Account

The Livestock Commission, as ex-officio the Livestock Sanitary Board, has had invested by the Land Board moneys in the Livestock Sanitary Board Emergency account in the Earmarked Revenue Fund. This account was established prior to 1940 with excess livestock taxes. Section 84-5209, R.C.M. 1947 provides for a tax levy on all livestock in the state to aid in paying the salaries and expenses connected with the enforcement of stock laws of Montana. The tax levy moneys are deposited in the Livestock Sanitary Board account in the Earmarked Revenue Fund.

Section 84-5212, R.C.M. 1947 provides that moneys may be transferred from the Livestock Sanitary Board account to the Livestock Sanitary Board Emergency account at the discretion of the Sanitary Board. Under former law, the Livestock Sanitary Board was allowed to expend General Fund moneys before spending the earmarked mill levies and thus a large excess of mill levy moneys accumulated which was invested. Section 84-5212, R.C.M. 1947 provides that the emergency moneys shall be:

> . . . used by the livestock sanitary board for the payment of indemnity for animals slaughtered and for the payment of expenses in investigating and suppressing diseases, including quarantine and all expenses connected therewith.

Although there have been few emergencies since the establishment of this account, it is considered necessary to keep such a reserve so that immediate action can be taken in combating a serious outbreak of livestock disease.

When emergency payments are made from the emergency account, the account is reimbursed by the transfer of money from the Livestock Sanitary Board account so that the amount invested remains fairly constant. The only investing done in recent years is the investing of accumulated interest which in 1969 amounted to $2,000.

On January 1, 1970, there was $105,000 from this account invested in United States bonds, bills and notes.

Livestock Sanitary Board Federal and Private Revenue Account

The Livestock Commission, as ex-officio the Livestock Sanitary Board, has invested $39,000 from the Livestock Sanitary Board account in the Federal and Private Revenue Fund. The money was a reimbursement from the federal government for state General Fund moneys expended on the meat inspection program set up in accordance with the Wholesome Meat Act of 1967. Under the provisions of the Act, the state of Montana entered into an agreement with the United States Secretary of Agriculture in December, 1968, which entitled the state to reimbursement for moneys spent on the program between December, 1968 and June, 1969.

At the time of reimbursement, the Livestock Sanitary Board requested spending authority for the money from the Budget Director so that the Board could keep the money available for unanticipated expenditures in the new meat inspection program. While awaiting the decision of the Budget Director, the Livestock Sanitary Board requested the Land Board to invest the moneys in 6-month United States Treasury bills. The Budget Director's decision was that when the investment matures, the federal moneys should be used by the Livestock Sanitary Board in lieu of appropriated state General Fund moneys for operational expenses and not be earmarked for future unanticipated expenses.

Hail Insurance Account

The State Board of Hail Insurance, consisting of five members (the State Treasurer, Commissioner of Agriculture, and three members appointed by the Governor), administers the Hail Insurance program (Section 82-1501, R.C.M. 1947). All revenue is deposited in the Agency Fund; moneys for administrative expenses are then transferred to the Earmarked Revenue Fund.

Section 82-1506, R.C.M. 1947 authorizes the State Board of Equalization to levy a tax up to a specified amount on all lands in the state growing crops subject to injury or destruction by hail, the owners of which elect to come under the Hail Insurance program. The Board of Hail Insurance determines what rate shall be levied each year according to:

1. the anticipated expenses of administration,
2. the anticipated hail losses for the current year, and
3. the amount to be added to the reserve fund (Section 82-1507, R.C.M. 1947 provides that the Hail Board shall provide for a reserve fund which cannot exceed $1,200,000).

As tax payments are made by the insured, the money is deposited in the Hail Board account in the Agency Fund where it is invested until needed.

The chairman of the Hail Board and the State Treasurer decide when to make an investment. Usually this is when the account has $100,000 or more in it. There were four investments and reinvestments made from this account by the Land Board in 1969, totaling $1,150,000.

The reserve fund (which is a part of the Hail Board account in the Agency Fund but accounted for separately) has reached its statutory limit of $1,200,000 and is invested in Federal Land Bank bonds. Part of the interest received from this investment is used to pay expenses of administration.

On January 1, 1970, the Hail Board also had an additional $150,000 invested in short term United States Treasury bills for a total investment on that date of $1,350,000.

<u>Oil and Gas Conservation Commission Account</u>

The Oil and Gas Conservation Commission, consisting of five members appointed by the Governor, is self-supporting from revenue derived from drilling permit fees and from taxes on oil and gas production (Section 60-145, R.C.M. 1947). The revenue is deposited in the Oil and Gas Conservation Commission account in the Earmarked Revenue Fund. The Executive Secretary of the Commission determines when a surplus of revenue over the amount immediately needed for the administration of the program exists and requests the Land Board to invest the surplus. In 1968, the Commission invested $125,000 and an additional $25,000 in 1969. The $150,000 total was reinvested three times in 1969. The Commission has no investment policy and has decided upon no pre-determined amount of surplus that will be invested. The Commission is not able to forecast when there might again be an investable surplus.

On January 1, 1970, the Oil and Gas Commission had $150,000 invested in 90-day United States Treasury bills.

<u>Examining Board of Cosmetology Account</u>

The Montana State Examining Board of Cosmetology, consisting of three members appointed by the Governor (Section 66-804, R.C.M. 1947), is self-supporting from revenue derived from license and examination fees which are deposited in the Earmarked Revenue Fund.

Prior to 1963, the Board of Cosmetology resolved to attempt to save enough money to build or purchase a building so they could have a permanent place for holding examinations. In 1963 the Board requested the Land Board to invest $9,000 in United States Treasury bonds. Later that year, a $1,000 bond was cashed. In 1968 the Board invested $5,000 in Federal Land Bank bonds. There has been no investment activity in this account since 1968. The interest earned on investments is used for operational expenses.

The Executive Secretary of the Board reports that because of a change in administrative practices and resulting increase in expenses, there is little likelihood of any additional investing by the Board of Cosmetology in the near future.

On January 1, 1970, there remained invested from this account $13,000 in United States Treasury and Federal Land Bank bonds.

Water Well Contractor's Account

The Water Well Contractor's License Act which was passed in 1961 provided for the licensing of all water well contractors. The Water Well Contractor's Examining Board, which consists of three members (the State Engineer, the Director of the Division of Environmental Sanitation of the State Board of Health, and a member appointed by the Governor, Section 66-2605, R.C.M. 1947), collects the initial license and license renewal fees and deposits them in the Water Well Contractor's account in the Earmarked Revenue Fund. Because the initial license fee is $100, a surplus amounting to $8,000 was invested in 1965 in United States Treasury bonds and there has been no investment activity in this account since that time. Interest on the investment is used to defray operational expenses.

Wheat Research and Marketing Account

The work of the Wheat Research and marketing Committee is financed by an assessment of one-quarter of one cent ($\frac{1}{4}$¢) on each bushel of wheat grown in Montana, voluntarily paid by growers at the time of sale of wheat. The law provides that all assessments be deposited in the Wheat Research and Marketing account in the Revolving Fund (Section 3-2917, R.C.M. 1947).

The Act creating the Committee was passed in 1967 and shortly thereafter the Committee (consisting of seven members appointed by the Governor and as ex-officio and the non-voting members, the Commissioner of Agriculture, the Dean of Agriculture at Montana State University and a representative of the grain trade elected by the seven appointed members) created a reserve fund of $50,000 to assure continuity of projects and funding in case of crop failure or natural disaster. The reserve moneys were invested in short term United States Treasury bills, which were reinvested four times in 1969. On January 1, 1970, the Wheat Research and Marketing Committee still had the $50,000 invested in United States Treasury bills.

Sanitarians' Registration Council Account

The Sanitarians Registration Council, consisting of three sanitarians appointed by the Board of Health, collects applications for registration and renewal fees which are deposited in an account in the Earmarked Revenue Fund (Section 69-3404, R.C.M. 1947).

In June, 1968 the Council passed a resolution to invest $1,400 as a reserve which could be used to pay attorney fees if it became necessary to hire counsel for any particular case. The Land Board was requested to make the investment. The Council has since resolved to increase this investment to $2,000. Until the $2,000 mark is reached, members of the Council will often bear their own expenses for attending meetings and other budgetary items will be bypassed. After the $2,000 goal is reached, the secretary-treasurer of the Council reports that there will be no further investments made from this account.

On January 1, 1970, the Sanitarians Registration Council had $1,400 invested in a Certificate of Deposit.

Board of Certification, Water and Waste Water Operators Account

The Board of Certification for Water and Waste Water Operators, consisting of seven persons appointed by the Governor, (Section 69-5903, R.C.M. 1947) was created on July 1, 1967; however, the Board did not begin functioning until January 1, 1968.

The American Water Works Association donated $2,000 to the Board for initial expenses, and the Board is charged with collecting certificate filing and renewal fees which are used to pay expenses of the Board (Sections 69-5908, 5909, R.C.M. 1947). The first collections were for both the 1967 and 1968 certificates, thus creating a surplus in the earmarked account into which the fees are deposited. In December, 1969, the Board requested the Land Board to invest $7,000 of this surplus. The office manager for the Board states that it is not known at this time whether or not there will be any surplus moneys in the future available for investing.

On January 1, 1970, the Board had $7,000 invested in Federal Land Bank bonds.

Long Range Building Sinking Fund Account

On December 1, 1969, the Board of Examiners authorized the Land Board to buy a Capitol Building bond with funds in the Long Range Building Program account in the Sinking Fund.

This money is that not immediately needed for payment of Long Range Building Program bonds or interest thereon, and Section 79-305, R.C.M. 1947 authorizes the State Board of Examiners to "cause to be invested . . . all funds under their direction and control not immediately needed." Section 79-1202 (3), R.C.M. 1947, provides that any Sinking Fund moneys may be invested in bonds of the state of Montana.

Income from the Capitol Building Land Grant will be used to retire the Capitol Building bond.

On January 1, 1970, there was $250,000 invested from the Sinking Fund account in a Capitol Building bond.

University Sinking Fund Accounts

The majority of University bond issues are handled locally; many bond indentures require that the University unit itself and local banks oversee the issuance of the bonds, investment of proceeds, etc. However, sometimes when bonds are issued to finance a need of a University unit, the moneys pledged to pay the principal and interest on the bonds, as well as any premiums or interest received on the bond proceeds, are deposited in an account in the Sinking Fund in the State Treasury and invested directly from the State Treasury. Some bond indentures require that a certain amount of money be set aside as a reserve fund. The reserve moneys are also deposited in the Sinking Fund.

For the six Sinking Fund accounts involved, the treasurer at the University unit has determined when and how much money in the Sinking Fund is available for investment and has requested the Land Board to make the investments.

On January 1, 1970, there was a total of $280,500 from six Sinking Fund accounts invested; two accounts were for Northern Montana College and four were for the University of Montana.

Long Range Building Clearance Account

Proceeds from the sale of bonds by the state of Montana to finance the Long Range Building Program are deposited in the Long Range Building Clearance account in the Bond Proceeds and Insurance Clearance Fund (Section 79-2202 (5), R.C.M. 1947).

The architect in the Division of Architecture and Engineering of the Department of Administration, with the help of two project inspectors makes a monthly forecast of how much money will be needed to pay contractors, etc., and then requests the Land Board to invest the surplus. The investments are kept very flexible so that some are always maturing as money is needed. The architect spends one day a month on this investment function and each project inspector spends one-half day per month. In 1969 there were fifteen (15) investments made from this account totaling $7,450,000. The average investment was $495,000; with $250,000 the smallest amount invested and $900,000 the largest amount.

On January 1, 1970, there was $500,000 from this account invested in United States Treasury bills.

World War I Compensation Bond Escrow Sinking Account

Section 84-5605.30, R.C.M. 1947, provides that after necessary funds are set aside for the payment of all outstanding World War I Compensation bonds, the three cent (3¢) tax on cigarettes used to pay off these bonds can be used to retire Long Range Building program bonds instead. In 1967, the State Board of Examiners set aside and pledged $2,034,782.50 in United States Treasury bonds, bills and notes from the World War I Compensation account in the Sinking Fund, to pay off the $2,100,000 outstanding in World War I Veterans' Compensation bonds.

The Board of Examiners deposited the pledged securities with the Union Bank and Trust Company under an escrow agreement whereby the Bank applies the interest and maturity payments from the United States bonds to the World War I bonds as they mature; and uses any reinvestment income to pay the charges of the Union Bank and of the World War I bonds paying agent, the Bank of California, San Francisco. The World War I bonds will be completely retired on July 1, 1971.

On January 1, 1970, the amount remaining invested from the World War I Compensation account in the Sinking Fund, earmarked to pay off the World War I bonds, was $1,470,434.05 in United States Treasury bonds, bills and notes.

BOARD OF ADMINISTRATION, PUBLIC EMPLOYEES' RETIREMENT SYSTEM

General

The Board of Administration of the Public Employees' Retirement System (hereinafter called "PERS"), which consists of five members appointed by the Governor, invests the following three funds*:

1. Public employees' retirement fund,
2. Game Wardens' retirement fund, and
3. Judges' retirement fund.

On January 1, 1970, there was a total of $59,056,495.91 invested from these three funds.

Statutory Law

Under Section 68-701, R.C.M. 1947, the Board of Administration of PERS is charged by law with the management of the public employees' retirement fund. The same section provides that the fund shall be invested by the State Board of Land Commissioners as part of the long term investment fund, and Section 79-1202 (2), R.C.M. 1947 also provides:

> "The state board of land commissioners is hereby authorized and required to invest in the long term investment fund the following: . . . moneys administered by the public employees' retirement board. . . ."

Section 68-1404, R.C.M. 1947, provides that the Board of Administration of the PERS is also the State Game Wardens' Retirement Board.

Section 68-1405, R.C.M. 1947 provides:

> "Whenever there is on deposit in the Montana state game wardens' retirement account a sum in excess of twenty-five thousand dollars ($25,000), such excess will be invested by the state board of land commissioners as part of the long-term investment fund and any of the account less than twenty-five thousand dollars ($25,000)

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*The Board, through its Social Security Division, also invests Social Security Contribution moneys. This is discussed separately on page 25 of this report.

in amount shall be invested by the state board of land commissioners as part of the short-term investment fund when so directed by the Montana game wardens' retirement board."

Section 93-1109, R.C.M. 1947, provides that the Board of Administration of PERS shall also be the Judges' Retirement Board.

The securities allowed for the long and short-term investment funds are set forth in Section 79-1202, R.C.M. 1947. (See page 2 of this report.) This section of the law is the investment authority followed by the PERS board. There has been no formal investment policy adopted by the Board and, due to constant change in yields in the investment market, investment media for PERS funds change from time to time.

Procedure

In practice, the State Board of Land Commissioners does not do the investing of PERS funds but merely gives rubber stamp approval to investments as they are made.

Investing is done on a daily basis in short-term securities by the administrative assistant, subject to the approval of the secretary of the Board of PERS.

Usually, securities in denominations of at least $100,000 are purchased and held in escrow until sufficient money is available for long term investment. (There is a minimum of short-term investments with the Judges' or Game Wardens' Retirement System moneys because of the smaller sums involved, and these moneys are kept and invested separately.) The short-term investments are usually chosen by the administrative assistant but long term investment decisions are made by the Board of Administration of PERS. At the monthly PERS board meetings, representatives of different financial institutions present the current paper investment media available for investments and members of the board are also presented with a list of available federally guaranteed and/or insured mortgages.

However, if a good investment and sufficient cash become available between board meetings, the secretary of the board contacts the members with information on the investments that are currently available and secures majority board approval before making any long term investments. Mortgages are presented and decided upon only at the monthly meetings. The secretary of the board consults with professional investment personnel, however, there is no investment service formally retained.

Once an investment is decided upon, the accountant-auditor makes up an interoffice claim for the cost of the investment and a state warrant is

issued by the PERS Board for that amount. If the investment is long term, a letter is written to the State Board of Land Commissioners stating what investment has been made; the State Land Commissioner stamps his approval on the letter and returns a copy of it to PERS; and at the next subsequent meeting of the Board of Land Commissioners, the investment is approved by the entire Board. No approval is sought for short-term investments.

A copy of the PERS interoffice claim for the amount of the investment is sent to the State Treasurer who keeps an accounting of all investments (except mortgages) and also keeps the securities in safekeeping.

The administrative assistant devotes about 75 per cent of his time to the investment function. This is so because almost all of his accounting work is tied in with investments and he is investing on a daily basis. The accountant-auditor of PERS spends about one fourth of his time on investment relaties duties, and about the same percentage of time is spent by the secretary of the board. Either the administrative assistant or the accountant-auditor spend approximately five weeks per year auditing the banks from which PERS purchases mortgages. In 1969, there were 36 banks audited.

It has been estimated by the PERS personnel that the administrative cost of the investment function for the PERS is about $10,000 per year; because of the extensive accounting involved, regardless of who does the actual investing, about $4,000 of this would be a fixed cost.

Presently, PERS has sufficient income from mortgage payments and money on reserve to pay the monthly cost of operation. All other income, some $500, 000 to $600,000 each month is invested. Of the $22 million invested yearly, about $14.5 million represents short-term investments which are redeemed and reinvested.

Funds Invested

Public Employees' Retirement System Account

The PERS Board invests surplus and reserve moneys in the PERS account in the Agency Fund. The retirement system is financed by moneys from this account which consist of:

1. Employer contributions of 4 per cent of employees' compensation (Section 68-1307, R.C.M. 1947) and

2. Employee contributions of 5.75 per cent of compensation (Section 68-702, R.C.M. 1947);

which moneys are deposited in the PERS account in the Agency Fund and combined for the purpose of investment and reinvestment.

Costs of administration of PERS are financed by:

1. Annual membership fee of $1.00 from each employee member (Section 68-707, R.C.M. 1947) and

2. Three-tenths of one per cent (.003) of employees' compensation paid by employers to PERS. (This figure is set by the PERS Board under the authority of Section 68-1310, R.C.M. 1947.)

The moneys for administration are deposited in the PERS earmarked revenue account in the Earmarked Revenue Fund. In the past, there has been an excess of membership and administratrative fees (amounting to over $160,000 for fiscal year 1969), which is credited in PERS records to the employers' contributions total and transferred to the PERS account in the Agency Fund where it is combined with all other moneys in this account.

On January 1, 1970, the investment total from the PERS agency was $57,952,531.54. (Not included in this figure is $175,000 which PERS has invested in rental property and which is returning over 9 per cent yearly.) The investments comprising this total are set forth in the table below.

Investment	Amortized Book Cost	Per cent of Total Investment
United States Bonds	$ 2,355,720.87	4.1%
Federal Land Bank Bonds	1,092,437.95	1.9%
Mutual Mortgage Insurance Fund Debentures	121,446.00	.2%
Federal National Mortgage Insurance Debentures	639,636.65	1.1%
Industrial Bonds	504,210.00	.9%
Mortgages	21,246,012.74	36.6%
Public Utility Bonds	29,510,217.33	50.9%
Farm Home Administration Notes	701,646.68	1.2%
Railway Equipment Trust Certificates	1,050,122.60	1.8%
Federal National Mortgage Association Participating Certificates	679,912.93	1.2%
FHA Sinking Fund Bonds	51,167.79	.1%
	$ 57,952,531.54	100.0%

The net interest earned on investments by PERS during fiscal year 1969 was $2,648,663.97 for a return of about 5.05 per cent.

Game Wardens' Retirement Fund

The PERS Board invests surplus moneys in the game wardens' retirement account in the Agency Fund. This account was established in 1963 (Section 68-1408, R.C.M. 1947). The law provides that all moneys any state game warden had previously paid into the Public Employees Retirement System, whether as a game warden or otherwise, be transferred to the game wardens' retirement account. On July 1, 1963, the PERS transferred $166,747.92 to the game wardens' retirement system.

Each member of the retirement system pays 7 per cent of his monthly salary and the state pays a matching 7 per cent from fish and game earmarked moneys to support the system (Sections 68-1409 and 68-1410, R.C.M. 1947). The state pays for expenses of administration by an additional three-tenths of one per cent (.003) of the member's monthly salary which is deposited in the PERS account in the Earmarked Revenue Fund and combined with the moneys used to pay for PERS administrative expenses.

Section 68-1410, R.C.M. 1947, provides:

> The expense of the administration of this act, exclusive of the payment of retirement allowances and other benefits shall be paid by the state of Montana out of the fish and game moneys in the earmarked revenue fund, made on the basis of budgets submitted by the board. (Emphasis supplied).

The PERS board has set the figure of .003 of members' salary and, for bookkeeping purposes, keeps records of income and disbursement for the administrative expense of the game wardens' retirement system but actually treats the PERS administrative moneys and game wardens' retirement administrative moneys as one fund.

Investing is done for the game wardens' retirement system by the Board of Administration of PERS about once every three months or whenever a $25,000 surplus accumulates in the account. During fiscal year 1969, game wardens' investments produced a yield of 4.48 per cent.

On January 1, 1970, the game wardens' retirement system had $664,641.05 invested as follows:

Investment	Amortized Book Cost	Per cent of Total Investment
United States Bonds	$ 40,146.79	6.0%
Public Utility Bonds	505,240.48	76.0%
Mortgages	34,346.28	5.2%
Federal National Mortgage Association Participating Certificates	25,000.00	3.8%
Railway Equipment Trust Certificates	24,907.50	3.7%
Farm Home Administration Notes	35,000.00	5.3%
	$664,641.05	100.0%

Judges Retirement System

The PERS Board invests surplus moneys in the Montana judges' retirement account in the Agency Fund. The Montana Judges' Retirement System was established on March 2, 1967 and thereafter employee contributions of judges to the PERS prior to July 1, 1967, and the interest thereon, amounting in total to $32,955 were transferred from PERS to the Montana judges' retirement account. Each member of the Judges' Retirement System pays 6 per cent of his monthly salary and the state pays a matching 6 per cent to support the system (Sections 93-1115 and 93-1116, R.C.M. 1947).. In addition, one-fourth of all fees collected by all county district court clerks and one-fourth of all fees collected by the Clerk of the Supreme Court are deposited in the Montana judges' retirement account to support the system (Section 93-1116, R.C.M. 1947).

Administrative expenses are computed each year by the PERS Board and transferred from the Montana judges' retirement account to the PERS account in the Earmarked Revenue Fund (Section 93-1110, R.C.M. 1947). These expenses average about $1,100 per year. Although Section 93-1111, R.C.M. 1947 provides that judges' retirement moneys may be co-mingled

with PERS funds, they are not. The moneys are kept and invested separately by the PERS Board. Investments are made every few months when sufficient funds accumulate. Usually investments are not made in amounts less than $25,000. Investments for the Judges' Retirement System returned 4.83 per cent for fiscal year 1969.

On January 1, 1970, the Montana Judges' Retirement System had $439,323.32 invested as follows:

Investment	Amortized Book Cost	Per cent of Total Investment
Public Utility Bonds	$ 379,607.33	86.4%
Mortgages	34,715.99	7.9%
FHA Notes	25,000.00	5.7%
	$ 439,323.32	100.0%

SOCIAL SECURITY DIVISION

General

The Board of Administration of the Public Employees' Retirement System is charged with administering the Social Security Act covering employees of the state and the political subdivisions. The Social Security Division, which was established administratively by the PERS, invests the social security contributions until quarterly payment is made to the Secretary of the United States Treasury.

Statutory Law

Section 59-1105, R.C.M. 1947 gives the Board power to invest the social security contribution account in the agency fund " . . . in investments of the same character as are permitted by section 79-1202 of this code for the investment of moneys in the long term investment fund. . . ." (See page 1 above.)

Procedure

The PERS Board sets investment policy concerning permissible securities to be purchased by the Social Security Division. On the basis of a recent Attorney General's opinion, the Board has ruled that the Social Security Division may invest in commercial paper. However, other than for a major change in policy such as this, the Board is not consulted by the accountant of the Division who does the actual investing. Approval is not sought from the Land Board nor any notice given to that Board.

The employee and employer social security contributions are received monthly and deposited in the social security contribution account in the Agency Fund. The accountant for the Division invests the money in short term securities until the quarterly payment is made to the U. S. Treasury. Recently, because of higher yields, investments have been only in Federal National Mortgage Association securities.

The accountant makes all investment decisions. The Division does not retain nor consult a professional investment service. When a security is chosen, the accountant makes up an interagency claim for the amount of the investment and issues a state warrant which he takes to a local bank. The bank wires the money to the investment house and a safe keeping receipt is returned to the Social Security Division. A copy of the interagency claim is sent to the State Treasurer for his records.

The accountant estimates that he spends five to ten per cent of his time making investments and the auditor for the Division spends about 20 per cent of his time performing accounting services relating to investments.

Funds Invested

In fiscal year 1969, the Social Security Division invested $27,206,503; of this total, $11,113,260 represents reinvestments, the contributions total (actual income) for that year being $16,082,143.

Interest income for fiscal year 1969 was $154,000. Prior to February 26, 1969, part of the interest income was used for administrative expense of the Social Security Division and the excess allowed to accumulate. The 1969 Legislature provided that after administrative expenses of the Social Security Division are met, the excess interest income may be used to defray administrative expenses for the entire Board of Administration of the PERS or distributed pro rata to the contributing state departments. The Division accountant has stated that he does not foresee the excess moneys ever being distributed to the contributing agencies.

After the 1969 law became effective, accumulated interest in the amount of $130,000 was transferred to the PERS Account in the Earmarked Revenue Fund. (Eventually, at least a part of this excess interest income is transferred to the PERS Account in the Agency Fund where it is credited to the employers' contributions to PERS, as explained on page 20 above.)

On January 1, 1970, the Social Security Division had $3,106,403.65 invested in Federal National Mortgage Association Discount Notes.

INDUSTRIAL ACCIDENT BOARD

General

The Industrial Accident Board (which consists of three members; the Commissioner of Labor and Industry, the director of the Division of Vocational Rehabilitation, and a member appointed by the Governor,) invests the following four funds:

1. The Industrial Insurance Fund,
2. The Occupational Disease Fund,
3. The Second Injury Fund, and
4. The Volunteer Firemen's Compensation Fund.

On January 1, 1970, there was a total of $14,989,554.24 invested from the four funds. (Yield figures are not available.)

Statutory Law

Section 79-1202 (2), R.C.M. 1947 provides:

> The state board of land commissioners is hereby authorized and required to invest in the long term investment fund the following: . . . moneys administered by the industrial accident board; . . . ." (See page above.)

Procedure

The fiscal officer for the Industrial Accident Board (hereinafter referred to as the "IAB") makes all investment decisions, usually after consulting with a local banker or investment broker. The fiscal officer secures the approval of his investment choices from the IAB and a letter is written informing the State Board of Land Commissioners of the investment. The State Land Commissioner subsequently approves the investment by stamping the word "Approved" on a carbon of the IAB letter which is returned to the IAB and at the next Land Board meeting the investment is approved by the entire Board.

The fiscal officer makes investments only about twice a year. He buys mortgages only once a year from a list of available mortgages furnished by a Helena bank. The bank sends the files of several mortgages which are available and, after studying each file, the fiscal officer and the IAB decide which to buy. The IAB began purchasing mortgages on a very limited basis about 10 years ago; and the present policy is to limit investment in mortgages to less than ten per cent of total investments.

Once the investment is decided upon, the IAB issues a state warrant for the cost of the security. The amount of any premium paid is included in the warrant and the amount of any discount is not included. Discounts and premiums are accounted for in the investment bookkeeping records. The IAB sends the State Treasurer notice of the investment made and the cost thereof (except for mortgages; only the IAB has a record of mortgage investments). The Treasurer in turn makes up a journal voucher showing the amount of the investment, keeps one copy and sends a copy to the Controller, The Auditor, and the IAB. By means of this journal voucher the Controller and Treasurer record the investment. The actual expenditure is recorded on accounting records--the IAB cash balance debited--only at month's end when the Treasurer sends the Controller the disbursement sheet showing the total amount of IAB warrants paid. The securities purchased are left in safekeeping with the State Treasurer. (For further explanation of the warrant writing process and disbursement notice, see the January 20, 1970 staff report, "Expenditure Process--Montana State Government.")

The fiscal officer of the IAB estimates the administrative cost of the investment function at about $2,000 per year.

Funds Invested

Industrial Accident Account

The IAB invests surplus and reserve moneys in the industrial insurance account in the Agency Fund. This account is the one established in accordance with Compensation Plan Number Three under the Workmen's Compensation Act, Section 92-1101, R.C.M. 1947. Every employer subject to this plan pays a premium to the IAB industrial insurance account based on a percentage of his payroll in order to receive a contract of insurance from the IAB. Premiums are received monthly, quarterly, semi-annually, and annually by the IAB; the largest number of employers paying quarterly.

On January 1, 1970, the investment total for this account was $14,176,554.24. A breakdown of that total follows:

Investment	Total Invested (Cost)	Per cent of Total Investment
1. United States Government bonds	$ 8,517,000.00	60.07%
2. Employment Security Commission bonds	279,000.00	1.99%
3. AAA Corporate bonds	900,000.00	6.34%
4. AAA Utility bonds	3,256,000.00	22.96%
5. Federal National Mortgage Association debentures	500,000.00	3.52%
6. FHA Mortgages	724,554.24	5.12%
	$ 14,176,554.24	100.00%

In the past, the fiscal officer for the IAB has invested money from this account only about twice a year and has retained about $400,000 as a working balance in the account. Plans for future investing are to invest more often in smaller amounts.

Occupational Disease Account

The IAB invests surplus and reserve moneys in the occupational disease account in the Agency Fund. The Occupational Disease Act, Plan Number Three, Title 92, Chapter 13, R.C.M. 1947 is financed by an assessment of one-quarter of one per cent (.025%) of all premiums paid

to the industrial insurance account by employers under the Workmen's Compensation Act. The assessment, made under an IAB ruling, is made only when necessary; the last assessment being made in 1963. In January, 1970, there was only one active claimant under the Act; annual disbursement being about $3,000, which amount is sufficiently covered by interest income from the investment of surplus moneys in this account. (The law provides that this account shall be neither more nor less than self supporting.)

On January 1, 1970, there was $81,873.28 in the occupational disease account; $873.28 of it in cash and $81,000 invested in United States Treasury notes.

Section 7 of Compensation Plan Number Three, Section 92-1334, R.C.M. 1947, provides that the treasurer of the IAB shall invest the occupational disease account moneys:

> The treasurer of the board shall invest in bonds of the United States, bonds of the state of Montana, or bonds of any county, city, or school district in the state of Montana, or any other security which may be approved by said board, and out of the same and its earnings shall be paid such compensation and benefits as the board may direct; provided, however, that when there is sufficient money in the occupational disease compensation account to meet such compensation payments, any surplus or earnings remaining may be invested in the securities specified in this section.

However, the IAB fiscal officer does the actual investing, with the approval of the State Board of Land Commissioners, as explained on page 27 above.

There is very little investment activity for this account. The IAB fiscal officer invests only about once every two years, or whenever the uninvested surplus builds up to $1,000 or $2,000.

<u>Second Injury Account</u>

The second injury account in the Agency Fund is used to pay for permanent total disability of any employee who has previously lost a hand, arm, foot, leg, or eye and loses another in an industrial accident. The account is financed by payments of $500 (for each case of a death of an employee having no dependents) from either an employer under Plan I of the Workmen's Compensation Act, the employer's insurance carrier if under Plan II, or from the industrial insurance account in the Agency Fund under Plan III (Section 92-709A, R.C.M. 1947).

On January 1, 1970, there was $31,181.27 in the second injury account; a cash balance of $4,181.27 and $27,000 invested in United States Treasury notes.

There is very little investment activity for this account. In the past ten years, total income to it has been just $52,000. The IAB fiscal officer invests whenever he believes the cash balance warrants it. This may be every year or every two years.

Volunteer Firemen's Compensation Account

Section 11-2030, R.C.M. 1947 provides that the State Auditor shall deposit annually in the volunteer firemen's compensation account in the Earmarked Revenue Fund an amount equal to five per cent (5%) of the premium taxes collected from certain fire insurers enumerated in Section 11-1919 (2), R.C.M. 1947. From this account, the IAB pays $50 a year per mobile fire-fighting unit, not exceeding two units per department, toward a private hospitalization and lost time insurance policy for that unit. If a volunteer fireman is injured and qualifies for more than the maximum coverage furnished under the private insurance policy, then the IAB will pay the additional claim from the volunteer firemen's compensation account. However, since its creation in 1935, less than $500 has been paid out for injuries. The cost of purchasing insurance for the volunteer units is about $5,000 per year and income to this account is about $73,000 to $78,000 per year.

On January 1, 1970, there was $705,000 in this account invested in United States Treasury bonds. Section 11-2022 (5) R.C.M. 1947 provides that after the compensation account reaches $1 million, the excess shall be used to establish a volunteer firemen's pension fund.

The IAB fiscal officer invests moneys from this account only once a year when payment from the State Auditor is received.

TEACHERS' RETIREMENT BOARD

General

The Teachers' Retirement Board (which consists of five members; the Superintendent of Public Instruction, two persons from the teaching profession appointed by the Governor, and two persons representing the public appointed by the Governor), invests the Teachers' Retirement Account in the Agency Fund.

Statutory Law

Section 75-2708, R.C.M. 1947 provides:

> (1) The retirement board shall be the trustees of the moneys collected under this act and the same shall be invested and reinvested by the state board of land commissioners as part of the long term investment fund . . . .

Section 79-1202, R.C.M. 1947 provides:

> (2) The state board of land commissioners is hereby authorized and required to invest in the long term investment fund the following: . . . all moneys subject to investment as designated by the teachers' retirement board; . . . .

Section 79-1202, R.C.M. 1947 also sets forth the investment media allowed for the long term investment fund. (See page above.) This is the investment authority relied upon by the Teachers' Retirement System.

Procedure

The Teachers' Retirement Board sets investment policy, such as what type of investments are permissible and desirable, but the executive secretary of the Board makes the investment decisions and does the actual investing. Large mortgage investments are presented to and decided upon by the Board, but other investments are chosen by the executive secretary. Representatives of financial institutions having securities available present their offerings to the executive secretary who in turn reports to the Board on the investments that have been or will be made. No approval is sought from the Land Board, nor does the Land Board have any record of teachers' investments.

The Teachers' Retirement Board retains a professional investing service which sends price suggestions each week for securities which will be offered the following week. When the market has a great degree of fluctuation, the executive secretary keeps in close contact with the investment service by telephone, and personnel from the service make personal visits three times each year.

The Teachers' Retirement System invests almost exclusively in long term investments; however, since there is no income during the three summer months, in June of each year the executive secretary invests a sufficient amount in short term securities to cover summer retirement benefit payments.

The executive secretary invests on a daily basis for the two week period each month during which teacher and employer contributions are received; that is, he is watching the market daily and, upon advice of the investment service, making investments at the time and in the amounts deemed most advantageous. When he decides on an investment, the executive secretary writes a state warrant for the amount of the security and sends notice of the investment to the State Treasurer. No notice is sent concerning mortgage investments. Only the Teachers' Retirement System

has a record of its mortgage investments.

The System usually invests about $750,000 per month for nine months per year. In 1969, the System invested $7,555,000 ($1,300,000 of this was mortgage prepayments, not contribution income).

In May, June, and July of each year, the executive secretary and his administrative assistant audit the books of the 15 to 20 servicing agents from which mortgages have been purchased. The executive secretary states that it is not possible to accurately compute the total number of days spent on the audit because often it is combined with other duties. Other than his audit duties, the administrative assistant has no other investment related duties.

The executive secretary estimates that he spends between 15 and 25 per cent of his time on the investment function. In 1969, the fee paid to the Investment Service, which is computed in accordance with the market value of the portfolio, amounted to $3,300. The executive secretary states that it is impossible to arrive at an accurate estimate of the cost of the total investment function.

Funds Invested

The Teachers' Retirement Board invests reserve moneys in the Teachers' Retirement System Account in the Agency Fund. The retirement system is financed by moneys from this account which consist of:

1. 5 per cent of teacher's salary paid by teacher,
2. $4\frac{1}{2}$ per cent of teacher's salary paid by employer,
3. Interest on investments.

(The administrative expense is financed by a yearly contribution of $1.00 from each teacher member and from interest on investments.) For fiscal year 1969, the Retirement System had earned 5.22 per cent on its investments.

On January 1, 1970, the System had invested $53,885,570.12 as follows:

Investment	Book Value	Per cent of Total Investment
Corporate bonds	$ 27,006,917.18	50.12%
United States insured bonds	2,656,150.00	4.93%
Mortgages	24,222,492.93	44.95%
	$ 53,885,570.12	100.00%

(The investment total does not include $75,061.18 which the System has invested in an office building being constructed which will yield a return as rental property.)

DEPOSITORY BOARD AND STATE TREASURER

General

The State Treasurer, under the direction of the State Depository Board, invests the surplus treasury cash. On January 1, 1970, the total amount of surplus treasury cash invested was $19,155,285.

Constitutional and Statutory Law

Article XII, Section 14 of the Montana Constitution provides that the State Depository Board, composed of the Governor, State Auditor, and State Treasurer, shall designate depositories with which all funds in the hands of the State Treasurer shall be deposited, and at such rate of interest as may be prescribed by law.

Title 79, Chapter 3, R.C.M. 1947 sets forth the statutory duties of the Depository Board which include the authority to direct the investment of surplus treasury cash. Section 79-303, R.C.M. 1947 states:

> The state depository board shall authorize and direct the state treasurer to turn over to the state board of land commissioners for investment as part of the short term investment fund any surplus cash in his office. All interest received as a result of such investment shall be credited to the general fund of the state of Montana.

Section 79-1202, (3), R.C.M. 1947 (Unified Investment Plan) gives the State Board of Land Commissioners the authority ". . . to invest in the short term investment fund any surplus cash in the office of the state treasurer. . . . The surplus cash . . . may be invested in registered warrants of the state of Montana and in treasury obligations of the United States Government . . . ."

Securities Purchased

Surplus treasury cash is invested in United States government securities and certificates of deposit* (hereinafter called "CD's") in

*Certificate of Deposit: An inactive interest bearing time bank deposit.

Montana banks by personnel in the office of the State Treasurer. The Depository Board also authorizes the Treasurer to invest surplus cash in general fund warrants, after obtaining permission from the Land Board. The government securities and CD's are purchased by a State Treasurer's check, on one of the state's bank deposits, for the amount of the security. (See the January, 1970 staff report, "Expenditure Process - Montana State Government" for an explanation of the State Treasury and the state's depository practices.)

United States Government Securities

In 1951, a Fact-Finding Committee determined that about $20 million in surplus treasury cash could be invested in United States government securities. At that time the Depository Board made the investment. In subsequent years, half of the investment has been redeemed when treasury cash has become short. However, for the past 10-15 years, there has remained about $3,000,000 (par value) invested in United States bonds and about $7,000,000 invested in United States treasury bills.

Several times a year when bills mature they are sold and the interest earned (the difference between the cost and the selling price at maturity) is deposited to the credit of the general fund and the principal amount reinvested. The Depository Board has given the Treasurer authority to reinvest without consulting the Board each time a bill is to be turned over. The Land Board is not consulted. There is no record of any attempt since 1951 to study the treasury cash flow to determine if more short term investments could be made with surplus cash. The amount invested in government securities has remained at about $10,000,000 for the past 15-20 years.

On January 1, 1970, there was $9,854,035 invested in United States treasury bonds and bills.

Certificates of Deposit

In 1965 the Depository Board made it a policy that each newly chartered bank, after meeting the required criteria and furnishing sufficient collateral, should be considered a depository bank and given a token deposit of $20,000, with $10,000 of it on CD, and $10,000 in Demand Deposit.* Other than this amount, the Treasurer buys additional CD's only when requested to do so by a bank and if there is sufficient surplus cash to do so at the time.

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*Demand Deposit: An active non-interest bearing bank account. The total amount of state treasury money on demand deposit in all banks on four given dates in 1969 was as follows: March 30, 1969, $24,901,707.61; June 30, 1969, $26,514,777.07; September 30, 1969, $25,020,844.79; and December 30, 1969, $30,425,769.48.

Because most state warrants clear through the three Helena banks, the largest monetary deposits are in these banks. Banks outside of Helena usually get local deposits only, such as liquor and GVW receipts, but if a demand deposit in any bank is approaching its collateral limit, the Treasurer then will withdraw some cash and deposit it in a bank having sufficient pledged securities.

After meeting the necessary requirements, each Montana bank requesting to be a designated state depository is so designated. In the past, a meeting of the Depository Board would be called to formally designate a bank as a state depository. However, since 1965, a bank wishing to be designated as a depository merely presents a resolution to that effect to the Treasurer's office along with its Federal Deposit Insurance Corporation certificate and sufficient pledged securities to cover the amount of state deposit over and above the amount of the FDIC certificate. There is no longer a formal designation of a bank as a depository.

On January 1, 1970, there was $9,301,250 in surplus treasury cash invested in certificates of deposit in some 136 Montana banks. The amount of state money invested in CD's in any one bank is usually kept below the amount of the state's demand deposit in that bank. When the state's cash balance is high, a bank may have several times as much in the state's demand deposit as in CD's. The total amount of the state's investment in CD's does not vary much from year to year, and the Treasurer very rarely buys a new CD. All of the state's CD's presently pay at least 4 per cent interest and one pays 6 per cent. The interest rate is determined by agreement between the Treasurer and the bank.

Section 79-301 (1), R.C.M. 1947 states:

> . . . The state depository board may require the payment of quarter annual interest on daily balances of collected funds at a rate to be agreed upon between the depository banks and said state depository board, which rate shall be fixed semiannually;

At one time, banks paid interest on daily deposits but the National Banking Act of 1937 prohibited National banks from paying interest on public deposits and a Montana Attorney General's opinion has ruled that this statute deals with time deposits only. In practice, the bank advises the Treasurer what interest it is willing to pay.

State Warrants

Section 79-1101, R.C.M. 1947 states:

> Whenever the state board of land commissioners has under its control any funds subject to investment which in its judgment it would be advantageous to have invested in state general fund warrants, and there are not sufficient funds in the state general fund to pay warrants issued against such fund at the time the same are issued and presented for payment, it shall authorize and direct the state treasurer to purchase state general fund warrants, designating the fund or funds to be so invested and fixing the amount or amounts . . . . The state treasurer shall thereafter when such warrant is presented to him, pay same out of the proper fund as designated by the board and the warrant so purchased shall be registered as other state warrants and bear interest as provided by law.

Section 79-1202, R.C.M. 1947 provides that the surplus cash in the office of the Treasurer may be invested in registered warrants of the state of Montana, " . . . all warrants shall bear no interest . . . ."

For the past few years, the Depository Board has met only once a year and only for the purpose of authorizing the Treasurer to purchase general fund warrants with other treasury funds at no interest. This is made necessary because of the annual school distribution from the General Fund. In January of 1970, there was a school distribution of some $20 million. At the time there was only about $3 million in the General Fund.

For the first several months in 1970, the Treasurer will pay for the cashed General Fund warrants with treasury cash. The warrants will not be registered but merely held in the Treasurer's office as cash items. (This means they are not sent to data processing and through the accounting system to be debited against the General Fund until there is sufficient money in the General Fund.) This is a bookkeeping device to keep the General Fund out of the red. Surplus moneys from the other eight treasury funds are used to pay for the cashed warrants and the held warrants are disbursed gradually as the General Fund builds up.

S U M M A R Y

The State Board of Land Commissioners is the agency responsible by statute for investing, for all departments of state government, all funds subject to investment. However, the actual investing is done by six separate agencies (because of the division under the Board of Administration of the Public Employees' Retirement System, this involves only five boards) and the responsibility for determining what amounts should be invested is diffused throughout state government. Each individual state agency must determine for itself when, if, and how much surplus cash is available for short or long term investments, and there is no professional investment personnel to help them in reaching these decisions. Two boards (PERS and the IAB) seek retroactive approval of the Land Board, the other two boards (Teachers' Retirement and Depository) do not.

On January 1, 1970, there was a total of $221,307,642.92 invested from 33 separate accounts in the state treasury. The amounts invested by the six investing agencies on January 1, 1970, the types of securities held,* and the yield figures, if available, are set forth below.

--The Land Board had invested $71,214,334 from 24 separate accounts. Although Section 79-1202, R.C.M. 1947 gives the Land Board authority to invest in corporate securities, of the 24 accounts invested by them only one, the Highway Patrol Retirement Board account, holds corporate securities, and these corporate securities amount to only 15 per cent of the total investment from this account. All other investments made by the Land Board are in lower yield U. S. Government securities and the 1969 yield figures are not known.

--The Board of Administration of the Public Employees' Retirement System had invested a total of $59,056,495.91 from three separate accounts. The PERS account was invested 50 per cent in public utility bonds and 36.6 per cent in mortgages; the Game Wardens' account had 76 per cent invested in public utility bonds and the Judges' Retirement System had 86 per cent invested in public utility bonds. The 1969 yields for these three accounts were 5.05, 4.48, and 4.83 per cent respectively.

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*In not all cases will the figures--showing the percent of the agency's portfolio invested in various types of securities--add to 100 per cent; the percentages only reflect the <u>major</u> securities held by the agencies. A complete enumeration of the percentage of the total portfolio represented by each type of investment is set out in the text of this report.

--The Social Security Division had invested $3,106,403.65 from one account, all in Federal National Mortgage Association discount notes. Because all if its investments are short term, yield is not figured for this account.

--The Industrial Accident Board had invested $14,989,554.24 from four accounts: the industrial insurance account was invested 60 per cent in U. S. Government bonds and 23 per cent in triple A utility bonds; the occupational disease account, second injury account and the volunteer firemen's compensation account were all invested in U. S. treasury bonds or notes. No yield figures are available.

--The Teachers' Retirement Board had $53,885,570.12 invested from one account; 50 per cent in corporate bonds and 45 per cent in mortgages. The 1969 yield figure was 5.22 per cent.

--The State Treasurer had invested a total of $19,155,285 of surplus treasury cash; 51 per cent in U. S. Treasury bonds and bills and 49 per cent in certificates of deposit, with no yield figures available.

The six investing agencies have various investment practices and procedures. None of them employs an investment specialist, although one agency (Teachers' Retirement Board) retains an outside professional investing service. There is one employee responsible for the actual investing for each of the six agencies. The time spent by these employees in carrying out investment functions ranges from 5 to 75 per cent, with the frequency of investing varying from once a year for some accounts to daily for others.

In addition to the five boards involved in the actual investing, on January 1, 1970, there were twelve boards, commissions or councils* which had a part in deciding when, if, and how much money the Land Board was instructed to invest for them. Because of the number of people involved in the investing process, it is impossible to establish accurate full-time equivalent figures or compute the total administrative cost of the state's investment program. The employees doing the actual investing found it difficult or even impossible to estimate the percentage of their time spent on the investment function.

All of the agencies consider Section 79-1202, R.C.M. 1947, under the Unified Investment Plan, their statutory investment authority as far as permitted investment media is concerned but do not comply with the Plan in other respects and there is a wide variety in types of securities purchased.

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*The twelve are: Livestock Sanitary Board, Highway Patrol Retirement Board, Livestock Commission, Board of Hail Insurance, Oil and Gas Commission, Board of Cosmetology, Water Well Contractors Board, Wheat Research and Marketing Committee, Sanitarians Registration Council, Water and Waste Water Operators Board, and Board of Examiners.

A P P R A I S A L

The major deficiencies existing in the state's investment program are the same as they have been for the past twenty years. In its 1964 report, "The Investment of Public Funds," the Legislative Council concluded: "The two most apparent deficiencies in the state's long term investment program are: (1) the decentralization of administration, and (2) the lack of professional, qualified investments personnel."

In 1953 the Legislature attempted to cure these deficiencies by enacting the Unified Investment Plan (Title 79, Chapter 12, R.C.M. 1947). However, the only noticeable effect the Plan has had on former investment practices is to add some superfluous procedural steps, such as sending notice to the Land Board of investments made and the automatic after-the-fact approval of the investments by the Land Board.

Although the Land Board does invest for some agencies, it has no voice in establishing investment policy or practices for the agencies; it merely invests how much, when, and for what length of time as instructed by the agency doing the investing.

The Land Board itself does not have the time to do the actual investing. An employee of the Department of Lands and Investments is assigned this task as an "extra curricular" activity. This is one major reason for the failure of the Unified Investment Plan--the lack of assurance that the employee in charge of investments would be a full-time investment specialist.

The six separate employees charged with the investment function cannot be expected to be expert on investments because, with each of them, investing is a sideline. The diffusion of responsibility for investing among six agency employees leads to a great duplication in offices, record keeping, accounting and personnel. The six agencies have diverse procedures and standards. Various accounting and bookkeeping methods make it difficult to accurately compute a rate of return for the funds invested. In fact, of the 33 accounts being invested, a yield is reported for only four of the accounts so the state of Montana has no idea what kind of total return it is making on its investments.

The fact that only the agency involved has a record of mortgage investments causes the treasury account balances to be misleading. For instance, on January 1, 1970, the bond clerk in the State Treasurer's office showed an investment balance of $175,409,362.24, whereas there was actually invested from state treasury funds at that time $221,407,642.92.

The two major mortgage holders conduct separate audits of the servicing agents from which the mortgages were purchased. This is a time-consuming process done by separate personnel at different times; often

two audits are made of the same servicing agent.

Even the choosing of the mortgage investments is time-consuming. The members of the three boards which buy mortgages (PERS, Teachers' Retirement and IAB) must each study many mortgage files--this involves reading real estate descriptions, inspecting photographs of the property and credit reports of the mortgagors.

There are seventeen boards, commissions or councils presently involved in investing state funds. (Twelve of these request the Land Board to do the actual investing.) It is probably not possible to calculate the amount of time spent by these boards in considering and approving investments with their money.

None of the investing personnel has any written investment policy to follow and there is a great variance in types of securities purchased--with each agency confident that it is making the best investment possible and receiving the best return. With so few yield figures available, comparisons cannot be made, but many of the accounts which could be invested in perfectly safe corporate securities with high yields are being invested in low yield U. S. government securities.

Another deficiency in the state's investment program is the non-investing of idle cash. There is a considerable amount of interest income which is lost as a result. There is no record of a study having been conducted of treasury cash flow since 1950, and no one in state government seems to know how much surplus cash might be available for short term investments on a daily basis. In its 1964 report, "The Investment of Public Funds," the Legislative Council estimated that if idle cash were properly invested, additional interest income in excess of $200,000 per year would accrue to the state of Montana. The amount of surplus treasury cash that the State Treasurer has invested has remained almost constant for the past twenty years.

Each agency having non-General Fund moneys is a potential investor. Without an extensive study, it is impossible to determine how many agencies have surplus moneys under their control which could be invested from time to time. That there are some is indicated by the following two examples. (1) On January 13, 1970, the Agricultural Experiment Station requested the Land Board to invest $200,000. This money was derived from the sale of agricultural products at the Experiment Station and is eventually used for operating expenses, but all of it is not needed immediately. The director of the Experiment Station and the Montana State University business manager decided to invest the money in short term securities until it was needed and have stated that they could have been doing this for years and that they contemplate continuing such investments in the future.

(2) The director of the Fish and Game Commission has stated that when hunting and fishing license fees first come in there is a substantial amount of money that could be invested for short periods of time, but that the present Commission members have never considered investing this money.

Only the Trust and Legacy Fund is invested as one fund and the interest distributed pro-rata to each account within the fund. The accounts in the Long Term Investment Fund and the Short Term Investment Fund are invested separately even though as early as 1934, when proposing consolidation of all investment funds, the Commissioner of State Lands and Investments, I. M. Branjord, said, "The unified investment plan . . . does not represent a new-fangled idea; . . . it is a tested plan that has been followed by every bank and banker throughout civilization for centuries. How could a banker transact business if he had to find a suitable investment for each separate deposit? . . ."

None of the major investing agencies pool any of the funds under their control for the purpose of investing, although it would seem that if this were done, better securities could be purchased more often.

Because of the diffusion of responsibility for investments, there is lack of effective leadership and initiative for the investment program. A specific example of inattention to investment questions is the possibility that the investment authority relied upon by all six investing agencies (Section 79-1202, R.C.M. 1947) is unconstitutional in view of Article V, Section 37, Montana Constitution which forbids trustees to invest in the bonds or stock of any private corporation. (See Appendix B to the January 20, 1970 Staff Report on the Department of Administration.)

In considering the constitutionality of any statute which would allow the investment of state funds in corporate stock, in addition to construing Article V, Section 37, the Court will also have to construe Article XIII, Section 1, which provides in part that the state shall never become a subscriber to, or a shareholder in any company or corporation.

At least 43 states have constitutional provisions similar to Article XIII, Section 1 of the Montana Constitution. In construing such provisions, Courts in some states have turned to the historical setting in which the provisions were adopted - "when the evils of public aid to the railroads were notorious" (State ex rel Cryderman v. Wienrich, 54 Mont. 390, 170 P 942) - and have confined the constitutional restriction to investments in aid of any corporation as distinguished from investment of state moneys in well established companies.

However, two 1969 court decisions in other states have concluded that such constitutional provisions constitute a general prohibition against the purchase of corporate stock with state money (Sprague v. Straub, ______ Or. ______, 451 P 2d 49, and D. F. Engelking v. The Investment Board of

the State of Idaho, ____ Ida. ____, 458 P 2d 213).

At the same time, in order to assure a legally sound investment law the Court should be asked to construe other constitutional provisions concerning the investment of state funds--Article XII, Section 14 and Article XXI, Section 8.

Article XII, Section 14 creates the State Depository Board which has ". . . full power and authority to designate depositories with which all funds in the hands of the state treasurer shall be deposited . . . ." Although the law which was enacted in 1909 to carry out the provisions of this Article provides in part, ". . . Nothing herein shall be construed as limiting or impairing the right of the state board of land commissioners to invest public moneys in bonds or other securities as otherwise provided by law." (Section 79-301 (4) R.C.M. 1947), the Montana Court has never fully interpreted this Article in the light of what impact, if any, it has on investment law or policy.

Article XXI, Section 8 of the 1924 Trust and Legacy Fund amendment to the Montana Constitution is very similar to Article XI, Section 3 of the original Constitution, but the language of Article XXI has never been interpreted by the Montana Court.

There is a possibility that the language in Article XXI, Section 8 could be given a much less restrictive construction than the administrative construction that has been given to it.

Article XXI, Section 8 provides:

> The Montana trust and legacy fund shall be safely and conservatively invested in public securities within the state, as far as possible, including school district, county and municipal bonds, and bonds of the state of Montana; but it may also be partly invested in bonds of the United States, bonds fully guaranteed by the United States as to principal and interest, and federal land bank bonds. All investments shall be limited to safe loan investments bearing a fixed rate of interest . . . . (Emphasis supplied.)

The Board of Land Commissioners has consistently interpreted Section 8 to mean that the investment of the Trust and Legacy Fund is limited to only those types of securities specifically enumerated in the section; thus, the Trust and Legacy Fund has been invested in the most conservative of securities.

Article XI, Section 3 of the Montana Constitution was the investment authority for the public school fund before the school fund was included in the Trust and Legacy Fund under the Article XXI amendment.

Article XI, Section 3 reads:

> Such public school fund shall forever remain inviolate, guaranteed by the state against loss or diversion, to be invested, so far as possible, in public securities within the state, including school district bonds, issued for the erection of school buildings, under the restrictions to be provided by law. (Emphasis supplied.)

In State ex rel. Evans v. Stewart, 53 Mont. 18, 161 P 309, the Court said, "The language of section 3, Article XI . . . when read in connection with other provisions of the Constitution, particularly the terms of section 12 of the same Article, the purpose to confide to the lawmakers a wide discretion in the investment of all permanent school funds is apparent."

All of the above constitutional questions should be answered to insure Montana a vigorous, productive investment program.

PROPOSAL

In the January 20, 1970 report on the Department of Administration, the staff tentatively proposed that a central investment section be established within the fiscal division of the Department of Administration and that the investment functions of various state agencies be centralized in the Department.

The research contained in this report confirms the preliminary judgment of the staff. The staff now recommends:

(1) That a central investment section be established within a fiscal division of the Department of Administration and that the investment functions now performed by the State Board of Land Commissioners, the Industrial Accident Board, Public Employees' Retirement System, Social Security Division, Teachers' Retirement System, and the State Treasurer be centralized in the Department.

(2) That the Department employ qualified investment personnel who shall invest and reinvest all moneys in the state treasury subject to investment, including surplus treasury cash.

The staff also noted in the preliminary recommendations that the size and scope of a central investment program for the state of Montana depends upon the answers to certain legal questions; the primary question being what public moneys, if any, may the state of Montana invest in the stocks and bonds of private corporations. The provisions of Article V, Section 37; Article XII, Section 14; Article XIII, Section 1;and Article XXI, Section 8 of the Montana Constitution have never been sufficiently construed by the Montana Supreme Court to provide an answer to this question.

A more definitive and comprehensive proposal on this subject hinges upon answers to these constitutional questions.

ARTICLE V

Sec. 37. No act of the legislative assembly shall authorize the investment of trust funds by executors, administrators, guardians or trustees in the bonds or stock of any private corporation.

ARTICLE XI

Sec. 2. The public school fund of the state shall consist of the proceeds of such lands as have heretofore been granted, or may hereafter be granted to the state by the general government known as school lands; and those granted in lieu of such; lands acquired by gift or grant from any person or corporation under any law or grant of the general government; and of all other grants of land or money made to the state from the general government for general educational purposes, or where no other special purpose is indicated in such grant; all estates, or distributive shares of estates that may escheat to the state; all unclaimed shares and dividends of any corporation incorporated under the laws of the state, and all other grants, gifts, devises or bequests made to the state for general educational purposes.

Sec. 3. Such public school fund shall forever remain inviolate, guaranteed by the state against loss or diversion, to be invested, so far as possible, in public securities within the state, including school district bonds, issued for the erection of school buildings, under the restrictions to be provided by law.

Sec. 12. The funds of the state university and of all other state institutions of learning, from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they were dedicated. The various funds shall be respectively invested under such regulations as may be prescribed by law, and shall be guaranteed by the state against loss or diversion. The interest of said invested funds, together with the rents from leased lands or properties shall be devoted to the maintenance and perpetuation of these respective institutions.

Sec. 13. The state treasurer shall keep a separate account of each fund in his hands, and shall at the end of each quarter of the fiscal year report to the governor in writing, under oath, the amount of all moneys in his hands to the credit of every such fund, and the place or places where the same is kept or deposited, and the number and amount of every warrant paid or redeemed by him during the quarter. The governor, or other person or persons authorized by law, shall verify said report and cause the same to be immediately published in at least one newspaper printed at the seat of government, and otherwise as the legislative assembly may require. The legislative assembly may provide by law further regulations for the safe keeping and management of the public funds in the hands of the treasurer; but notwithstanding any such regulations, the treasurer and his sureties shall in all cases be held responsible therefor.

Sec. 14. The governor, state auditor and state treasurer are hereby constituted a state depository board with full power and authority to designate depositories with which all funds in the hands of the state treasurer shall be deposited, and at such rate of interest as may be prescribed by law. When money shall have been deposited under direction of said depository board and in accordance with the law, the treasurer shall not be liable for loss on account of any such deposit occurring through damage by the elements or for any other cause or reason occasioned through means other than his own neglect, fraud or dishonorable conduct. The making of profit out of public moneys, or using the same for any purpose not authorized by law, by the state treasurer or by any other public officer, shall be deemed a felony, and shall be punished as provided for by law and part of such punishment shall be disqualification to hold any public office.

ARTICLE XIII

PUBLIC INDEBTEDNESS

Sec. 1. Neither the state, nor any county, city, town, municipality, nor other subdivision of the state shall ever give or loan its credit in aid of, or make any donation or grant, by subsidy or otherwise, to any individual, association or corporation, or become a subscriber to, or a shareholder in, any company or corporation, or a joint owner with any person, company or corporation, except as to such ownership as may accrue to the state by operation or provision of law.

ARTICLE XXI

MONTANA TRUST AND LEGACY FUND

Sec. 1. The state of Montana does hereby agree and covenant to accept from any natural person, or persons, from inside or outside the state, gifts, donations, grants and legacies in any amount or value not less than two hundred fifty ($250.00) dollars each, for the creation of a state permanent revenue fund, for the creation of a state permanent school fund, for the creation of a permanent revenue fund for the university of Montana, and for the benefit of scientific, educational, benevolent and charitable work, subject, however, to all the provisions and limitations of this article.

Sec. 2. The state further agrees and covenants to hold in trust all such contributions (gifts, donations, grants and legacies), to administer the same perpetually, and to apply the net earnings thereof as therein directed, subject, however, to the provisions and limitations of this act.

Sec. 3. The original amounts of all contributions for the state permanent revenue fund, for the state permanent school fund, and for the permanent revenue fund for the university of Montana, shall be added to such funds respectively and become inseparable and inviolable parts thereof. Contributions for other objects may contain a provision to the effect that the net earnings thereof, or part of the net earnings, shall be added to the principal for a certain length of time, or until it has reached a certain amount, or until the happening of a certain event, but such contingent event shall not be more remote than permitted by the laws effecting perpetuities; but no contribution containing such provision as to accumulation shall be accepted by the state until it has been approved by the supervisory board hereinafter constituted, which board shall have power to reject any such contribution that it may deem unwise.

Sec. 4. The state treasurer shall keep a permanent record of all such gifts, donations, grants and legacies, showing the names of the givers, the purpose of the contribution, and other essential facts relating thereto. A duplicate of this record shall be kept by the secretary of state. These records shall be preserved perpetually as a lasting memorial to the givers and their interest in society. The legislative assembly shall from time to time make provision for suitable publicity concerning these benefactors of their fellowmen.

Sec. 5. The same state board and officers that have charge of the investment and administration of the public school fund of the state shall have charge of the investment and administration of all the funds administered under this article. All these funds shall be invested as one common fund to be known and designated as the Montana trust and legacy fund. In case any contribution is in some other form than cash, such board shall convert it into cash as soon as practicable.

Sec. 6. The public school permanent fund, the other permanent funds originating in land grants from the United States for the support of higher institutions of learning, and for other state institutions, subject to investment, shall be invested as parts of the Montana trust and legacy fund; so also all other funds in the custody of any officer or officers of the state, subject to investment, that the legislative assembly may prescribe. The separate existence and identity of each and every fund invested and administered as a part of the Montana trust and legacy fund shall be strictly maintained.

All investments belonging to the public school permanent fund, except investments in state farm mortgage loans, and all investments belonging to the said land grant funds, shall be transferred to the Montana trust and legacy fund at the full amounts of the unpaid balances of such investments.

Sec. 7. The state shall accept for investment and administration as parts of the Montana trust and legacy fund, sinking funds, permanent funds, cumulative funds and trust funds belonging to or in the custody of any of the political subdivisions of the state when requested to do so by the governing board of such political subdivision, subject, however, to such limitations as the legislative assembly may prescribe. The legislative assembly may provide for the investment and administration as a part of the Montana trust and legacy fund of any other fund subject to its power.

Sec. 8. The Montana trust and legacy fund shall be safely and conservatively invested in public securities within the state, as far as possible, including school district, county and municipal bonds, and bonds of the state of Montana; but it may also be partly invested in bonds of the United States, bonds fully guaranteed by the United States as to principal and interest, and federal land bank bonds. All investments shall be limited to safe loan investments bearing a fixed rate of interest. In making long term investments preference shall be given to securities payable on the amortization plan or serially. The legislative assembly may provide additional regulations and limitations for all investments from the Montana trust and legacy fund.

All existing constitutional guarantees against loss or diversion applying to the public school fund, to the funds of the state university and to the funds of all other state institutions of learning, shall remain in full force and effect.

Sec. 9. On the last day of March, of June, of September and of December of each year, the state treasurer shall apportion all interest collected for the Montana trust and legacy fund during the three month period then terminating to all the separate and integral funds which constitute such fund on the day of such apportionment and which constituted parts of the fund on the first day of the three month period then terminating. The basis of apportionment shall be the average amount of each such fund between the first day and the last day of the three month period.

Sec. 10. The state treasurer shall keep all deposits of money belonging to the Montana trust and legacy fund separate and distinct from other deposits of money in his keeping.